

REMARKS

Reconsideration of the above-mentioned application is respectfully requested. The drawings have been corrected by including the reference numerals 50(shelf), 150 (wheels) and 164 (carriage) on figures 1, 1a, 10 and 11 as shown in red on the attached sheets for the Examiner's approval. In addition, numerals 64 on Fig. 12 has been changed to 164 and numeral 65 on Fig. 12a has been changed to 150.

The objections to the specification at page 8 line, 31 and claim 36 have been taken care of by appropriate amendment. In addition, the word "guide" on page 9, line 10 has been changed to "guides". On page 14, line 19 and page 15, line 4, the word "wheel" has been changed to "wheels". On page 14, line 19 the words "carriage 164 supporting" has been added after "on" and on page 14, line 29 the numeral 166 has been deleted. These changes correct grammatical errors and remove a numeral not shown as a separate element on the drawings.

Applicant acknowledges the Examiner's statement that the claims to the redesigned lifting mechanism, i.e., as shown in Figs. 1, 1a, 11, 12 and 12a may be patentable if applicant can demonstrate that such lifting mechanism "was introduced to public display within a year of the filing date of this application." A supplemental declaration by the inventor, Brad Shepherd, attesting to this fact is submitted herewith. New claims 38-50, directed to the new lifting mechanism, are also submitted herewith to afford applicant somewhat broader protection than original claim 31. As is pointed out in Mr. Shepherd's declaration, the new lifting mechanism is a significant improvement over the original lead screw/chain drive arrangement. Applicant is entitled to the protection afforded

by the new claims regardless of the Examiner's position on the public use or sale of the Traditional Jewelry display case.

Reconsideration of the rejection based on on sale or public use of the Traditional Jewelrys' display case is requested. The nature of the original security display case developed by Mr. Shepherd required testing that had to be to some extent public and for a considerable time period, e.g., to determine how it would function to protect expensive jewelry when operated by mechanically unskilled sales personnel (Shepherd Decl. ¶8, Shepherd suppl. Decl. ¶3, Halfacre Decl. ¶14).

The testing was conducted under the inventor's control, i.e., Mr. Shepherd had complete access to operate, maintain and improve the experimental case (Halfacre Decl. ¶14). Problems with the case were noted by Mr. Shepherd and corrected (Shepherd Decl. ¶19). The case successfully withstood an attempted robbery in January of 2001 in which a number of bullets hit the display (Halfacre Decl. ¶¶20, 21), although several items required repair (Shepherd original Decl. ¶20). Robbery attempts are a fact of life in jewelry stores. The subject application was filed within one year after the January 2001 event. The scope and length of the experimentation period was reasonable under the circumstances.

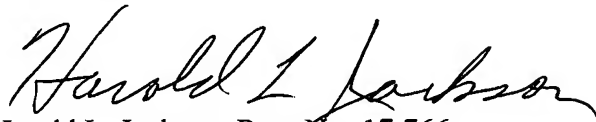
It is respectfully submitted that applicant has overcome the public use or sale bar by virtue of the experimental use exception. The rejection of claim 1-9, 11 and 14-37 is requested to be withdrawn and the claims allowed.

Appl. No. 10/021,386
Amdt. dated Feb. 18, 2004
Reply to Office Action of Aug. 27, 2003

This application is now considered to be in condition for allowance and such action is courteously solicited. If applicant's attorney can be of any further assistance, please call the undersigned at the number provided.

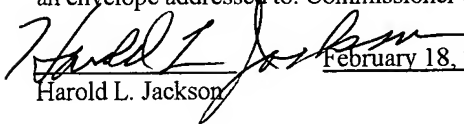
Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 18, 2004.



February 18, 2004
Harold L. Jackson